

**UNITED STATES DISTRICT COURT DISTRICT OF RHODE ISLAND**  
**UNITED STATES OF AMERICA**

Plaintiff

v.

C.A. No. 13-cv-442-M-PAS

**STATE OF RHODE ISLAND and**

**CITY OF PROVIDENCE**

Defendants

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**COURT MONITOR TESTIMONY ON NOVEMBER 30, 2017:**

**STATUS CONFERENCE**

**ON THE COURT MONITOR'S SECOND REVIEW OF STATE ACTIVITIES**  
**IN RESPONSE TO THE ORDER OF COMPLIANCE WITH OUTSTANDING**  
**INTERIM SETTLEMENT AGREEMENT REQUIREMENTS FILED JUNE 23, 2017**

This is the second report documenting the State of Rhode Island's progress on meeting Interim Settlement Agreement (ISA) performance requirements specified by the Court's Order issued on June 23, 2017. The first report, filed on September 7, 2017, reviewed the State's progress on accomplishing the requirements of the 9 provisions included in Section I Action Dates. This review found that the State met the requirements of the Order with respect to Provisions 1, 3, 4, 6, and 7; had conditionally met the requirements of Provisions 5 and 9; and was not in compliance with Provisions 2 and 8.

The current second assessment updates the State's progress relative to each of the nine provisions of the Order identified in Section I, Action Dates and reports on the State's activities with respect to the requirements identified in Section II Placement Status, Section III Job Placements, and Section IV Compliance Dates. Additional comments and recommendations are included in Section V regarding person-centered practices and planning and integrated day services reflecting an in-depth review of CWS conducted by the Monitor and an independent consultant.

My comments today will highlight areas where the State has met or is meeting the requirements of the June 23<sup>rd</sup> Court Order, identify provisions of the Order where progress is being made but full compliance has not yet been achieved, and discuss those areas where a full assessment of activities and outcomes has been deferred to a later date. Additional comments will address two areas of concern: the expansion of person-centered practices and planning, and the implementation of integrated day services.

### **The State Met Requirements in Several Areas**

The State (DDD and ORS) met the requirements of the Court's Order with respect to 8 of 9 Action Dates listed under Section I, including:

- Implementing a Variance and Retirement Policy by June 30, 2017 (I.1).
- Prioritizing the placement of the 46 Target Population members identified as not employed and confirming their interest in participation or their satisfaction with employment services received through the performance based Person-Centered Supported Employment Program known as PCSEPP (I.3).
- Providing oversight of CWS' Quality Improvement Plan and technical assistance to that agency in the areas of supported employment, integrated day, Career Development Plan (CDP) development, and staff training on person-centered planning. ORS' provision of assistance to DDD with quality management and review of ORS-related services (I.4).
- Developing policy guidance and standards for integrated day services by June 30, 2017, completing internal and external reviews as required and disseminating the materials through the provider network by July 30, 2017 (I.5).
- Ensuring the completion of PATH plans for all Birch and TTP members at CWS who agreed to participate in the process by July 30, 2017 (I.6). Please note that the Order includes language requiring that target population members receive both PATH and MAPS planning. The two individual planning methodologies are very similar and are designed to accomplish essentially the same outcomes. I don't believe that it is necessary to use both planning approaches with the same individual covering the same period of time and have determined that the provision has been met by the State.

- Developing interim and long terms plans for Quality Improvement in accordance with the requirements of the ISA and Consent Decree, with the assistance of ORS with relevant timelines and strategies by July 30, 2017 (I.7).
- Completing an in-depth review of all class members by June 30, 2017 to ensure the validity of data from multiple sources as required. DDD has created and is implementing an accurate data tracker to report valid information from multiple sources across all ISA Target Populations (I.8).
- Completing a fully executed contract between DDD and the Sherlock Center by September 28, 2017. The amendment provided additional resources to an existing fully executed contract to address benefits counseling and planning (I.9).

### **Progress is Being Made in Several Areas**

**Section I Action Dates, Provision 2** requires DDD to ensure the quality of Career Development Plans (CDP) and Person-centered Planning (PCP) for all active members, and to confirm that individuals' goals and services align with their current employment interests. My first report on the Order filed on September 9, 2017 noted that this provision would be met when ISP/CDP content and alignment issues are fully resolved for all [active] TTP Target Population members.

DDD is actively addressing this provision. Although progress is being made, the requirement has not yet been fully met. The State completed a comprehensive review of career development plans and person-centered planning for all TTP Target Population members by July 30, 2017 as required. The review revealed that 52 of 89 (58%) CDPs for TTP Target Population members were unacceptable. A separate in-depth review of a sample of 10 CWS participants' plans and documentation conducted by an independent consultant and the Monitor found similar results. In this sample, of the nine CDPs that were found, only 5 plans reflected individuals' preferences and goals, three identified clear performance objectives, and only one appeared to have been developed through a person-centered planning process.

To address these deficiencies DDD is providing oversight and technical assistance to CWS to improve its person-centered planning processes and the alignment of goals across each individual's CDP, ISP, and PATH Plan. DDD is: (a) requiring CWS to assess each individual's

plans and services to identify deficiencies and areas in need of improvement, (b) working with CWS to ensure unacceptable plans are remediated in conjunction with each person's annual review date, and (c) overseeing CWS' plans to implement substantive changes in service operation through its *Employment Without Walls Pilot* initiative. In addition, the Division is merging the approach it uses for individual support planning with that used for career development planning to create a single format reflecting a whole life approach to service planning. DDD also developed and is implementing a uniform assessment tool to review all individual support and career development plans at CWS and system wide. The Division is working with CWS to remediate all unacceptable plans in conjunction with each person's annual review date by July 31, 2018. It is recommended that regular reports be provided to the Monitor to document progress.

**Section II Placement Status** requires no action at this time.

**Section III Job Placements** requires the State to ensure that 46 ISA target population target population members unemployed on the date of the Order be provided with employment supports and services in accordance with each individual's person-centered plan. DDD is ensuring that services and supports are being furnished to members of this group as required. The full assessment of the State's progress on this provision is deferred and will be assessed at a later date.

**Section IV Compliance Dates** details a schedule for placing the 46 unemployed ISA Target Population members. Placement data will be provided to the Monitor by the State on a quarterly basis. To date, the State has achieved placements for 11 of the 15 individuals who are required to receive a supported employment placement by March 23, 2018. The full assessment of the State's compliance with this provision is deferred to a later date.

### **Areas in Need of Attention**

**Section V** of the second report highlights some of the key findings of the in-depth review of CWS focused on person-centered practices in service planning, documentation and the provision of integrated day services. Non-work day services at CWS consist of a relatively

narrow range of options in which people participate in groups of three to 6 or more. Generally, services are activity-based and non-participatory; people attend a community event, visit the zoo, walk through a park, go to a restaurant for coffee, spend time in the local library or in stores in the mall. Although the services are provided in the community in the presence of others who are not disabled, they do not allow people receiving support to engage in self-directed activities at times, at frequencies, and with persons of their choosing during the day. As such the non-work day services provided by CWS do not meet the ISA's definition of integrated day services.

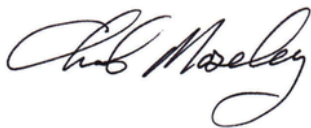
DDD's recognition of this issue at CWS and other providers is evident in the Division's newly issued Guidance and Standards for Integrated Day Supports, in the increased training being offered to providers and stakeholders by the Sherlock Center's Conversion Institute and in the expanded technical assistance being provided to CWS. CWS continues to operate on a conditional license from BHDDH. The agency is taking steps to improve person-centered practices and related documentation. CWS has designed and is implementing a pilot program focusing on improving employment outcomes among people receiving support and DDD is providing oversight and technical assistance. The increased focus on employment is long overdue. Although these changes are promising, the State must ensure that the improvements that are being made address all of the requirements of the ISA, including the structure and delivery of integrated community based non-work day services.

**In Summary the following recommendations are offered:**

- The State is requested to provide interim and final reports describing the number of ISPs and CDPs of ISA Target Population members that have been fully remediated with services appropriately aligned with individuals' goals and plans and the names of individuals whose plans have been revised and fully remediated.
- The State is requested to continue to support, monitor and report on job placements and compliance dates as described in Sections III and IV of the Order.

- DDD is requested to work with CWS to apply the same level of training and strategic planning used to develop individual's occupational and employment skills through its Pilot Program to the creation and delivery of person-centered and individualized community based non-work services for the people supported by that agency.
- DDD is requested to assist CWS in developing and including within each individual's ISP/CDP operational definitions of the integrated day services provided to each individual, the outcomes to be achieved and the linkage between the services and the expressed preferences of the individual.
- DDD is requested to review the seven recommendations made in the consultant's review of CWS services and report to the Monitor by December 31, 2017 on: those recommendations that are currently being addressed through existing State actions or initiatives, and on the recommendations that require that additional steps to be taken, and for each the actions the State will take and related timelines for completion.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Charles Moseley". The signature is fluid and cursive, with a large, stylized initial "C".

Charles Moseley EdD

Court Monitor

November 30, 2017